**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP No. 14062 of 2007
Date of decision: 18.9.2007

Gurmuskh Singh and others ...Petitioners

Versus

Financial Commissioner and another ...Respondents.

**CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL**
**HON'BLE MR. JUSTICE R.S. MADAN**

Present: Mr. ML Saini, Advocate,
for the petitioners.

**K.S.GAREWAL, J.**

Gurmukh Singh and three others have filed this petition in partition proceedings. Their main ground to challenge the partition proceedings is that they had never been served and the proceedings had taken place behind their back.

The partition application was filed by Harpreet Singh-respondent 2, on September 11, 2002. On October 28, 2003, Assistant Collector Ist Grade, Fatehgarh Sahib took on record the mode of partition and directed that the instrument of partition be prepared after expiry of the period for filing an appeal. Appeal was filed by Bant Singh, deceased father of the petitioners, to challenge the above mentioned order on the ground

that he had been proceeded against ex-parte on October 8, 2002 and in fact, service had never been effected on him. The Collector found that Bant Singh had been served in accordance with the the rules and the revenue court had proceeded after he had refused to accept service of summons, therefore, he had been rightly proceeded against ex-parte. Appeal was dismissed by the Collector. Revision before the Commissioner also met the same fate.

The Commissioner recorded that summons had been issued to Bant Singh for October 8, 2002 and were served through Chowkidar who recorded that "Dhira Daskhat Iltah Par Inkari Han". Furthermore, the partition proceedings took a further one year before being finalized, therefore, the Commissioner felt that it could not be believed that the petitioner did not come to know about the partition proceedings.

The Financial Commissioner was also unconvinced. The revenue courts have consistently decided against the petitioners and have found no merit in their plea that they had been invalidly proceeded against ex-parte.

We find no merit in this petition. Dismissed in limine.

**(K.S. GAREWAL)**
**JUDGE**

**18.9.2007** **(R.S. MADAN)**
**prem** **JUDGE**